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Report of the Independent Expert on human rights and international solidarity

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Independent Expert on human rights and international solidarity, Virginia Dandan, prepared pursuant to Council resolution 29/3. The main feature of the present report is the draft declaration on the right to international solidarity, contained in the annex. In the main body of the report, the Independent Expert provides the highlights of the work of the mandate since its establishment in 2005, bringing up to date the milestones that have led to the crafting of the draft declaration and that have advanced awareness of the value of international solidarity both as a principle and as a right, in the light of current developments in world affairs.

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Contents

		Page
I.	Introduction	3
II.	Activities undertaken by the mandate holder	3
	A. Summary of activities since the last reporting period	3
	B. Summary of key activities over the course of the mandate	5
III.	Highlights and achievements in the work of the mandate since its establishment, and the evolution of the draft declaration on the right to international solidarity	6
	A. Groundwork for the development of a right to international solidarity	6
	B. Shifting focus from the principle of international solidarity to a right to international solidarity	7
	C. Expert workshop on human rights and international solidarity	8
	D. Consolidation and analysis of data, writing and submission of the proposed draft declaration	8
	E. Proposed draft declaration on the right of peoples and individuals to international solidarity	9
	F. Five regional consultations	10
	G. Submission and revision of the proposed draft declaration	11
	H. Expert group meeting on the revised draft declaration on the right to international solidarity	11
IV.	Comments on the revisions of the draft declaration	11
	A. Preamble	12
	B. Definition, principles and objectives of international solidarity	12
	C. Right to international solidarity	13
	D. Implementation of the right to international solidarity	13
V.	Conclusion and recommendations	13
Annex		
	Draft declaration on the right to international solidarity	15

I. Introduction

1. The Human Rights Council appointed Virginia Dandan as Independent Expert on human rights and international solidarity with effect from 1 August 2011. In June 2014, in its resolution 26/6, the Council renewed the mandate until 2017. Ms. Dandan is the second mandate holder.

2. The Independent Expert expresses her thanks to the Member States of the Human Rights Council that have supported her mandate and cooperated with her. She also wishes to express her appreciation to those States that have not supported her mandate but who nevertheless engaged with her in dialogue to voice their positions with regard to the right to international solidarity.

3. The Independent Expert is grateful for the support and assistance she received from the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Geneva and in the regional offices, as well as for the advice and comments from experts of the treaty body system and from special procedure mandate holders. She acknowledges with gratitude the assistance of the legal experts who helped her shape and amend the draft declaration into its current form. She is also grateful to non-governmental organizations (NGOs) for their consistent support, their efforts and contributions to raise awareness of and promote the right to international solidarity. She would like to give credit to and recognize all those who participated in the regional consultations on the draft declaration held in Addis Ababa, Doha, Geneva, Panama City and Suva.

II. Activities undertaken by the mandate holder

A. Summary of activities since the last reporting period[1]

1. Participation in an international expert workshop on international solidarity

4. The Independent Expert was invited by the Centre for Global Cooperation Research to participate in an international expert workshop entitled "International solidarity: yesterday's ideal or emerging key norm?" held on 1 and 2 September 2016 in Berlin. She was requested to speak at the round-table session entitled "Solidarity as a prerequisite of international cooperation: the way forward." Among the key issues for discussion at the session were inferring from pertinent documents that international solidarity is an emerging norm in international relations, and the potential of international solidarity in the light of the relationships between interests and norms in international relations, and with regard to diverse cultural and ethical backgrounds. As she was unable to travel to the conference owing to sudden illness, the Independent Expert's paper was distributed among the panellists of the round table as material for discussion in her absence. Their comments on and discussion of her paper are contained in the published report of the workshop.[2] Her paper was also published in the monthly publication of the Centre for Global Cooperation Research.[3]

2. Report to the seventy-first session of the General Assembly

5. The Independent Expert submitted her thematic report to the General Assembly (A/71/280) for consideration at its seventy-first session. In her statement to the Assembly, she discussed the regional consultations on the proposed draft declaration on the right to international solidarity that had been held over the course of 2015 and 2016, as summarized in her previous report to the Human Rights Council (A/HRC/32/43).

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[1] See the Independent Expert's previous report to the Human Rights Council (A/HRC/32/43).

[2] See www.sef-bonn.org/fileadmin/Die_SEF/Veranstaltungen/Exp-WS/2016_exp-ws_report_en.pdf.

[3] See Virginia Dandan, "The path to a right to international solidarity", *Foreign Voices*, 2/2016. Available at http://www.sef_bonn.org/fileadmin/Die_SEF/Publikationen/Foreign_Voices/fv_2016-02_dandan.pdf.

6. In her report to the General Assembly, the Independent Expert examined in detail four key issues that had emerged from the discussions held during the regional consultations and that were highly relevant in revising the proposed draft declaration and producing the final version of the draft. She highlighted the following issues: updating the preamble to amplify the legal framework for international solidarity; articulating the conceptualization and nature of the right to international solidarity; taking into account both economic, social and cultural rights and civil and political rights in the consideration of the extraterritorial obligations of States; and identifying which non-State actors are being addressed in the proposed draft declaration, and elaborating their roles as required by the right to international solidarity.

3. Convening a side event at the seventy-first session of the General Assembly

7. While in New York to present her report to the seventy-first session of the General Assembly, the Independent Expert took the opportunity, with the co-sponsorship of the Permanent Mission of Panama to the United Nations, to convene a side event on 20 October 2016 to discuss the significance of international solidarity for a transformative change in global partnerships. The occasion was also an opportunity to engage with Member States and relevant stakeholders on the role that the mandate could play in promoting international solidarity as an indispensable factor in attaining the transformative shift towards the achievement of the 2030 Agenda for Sustainable Development, particularly through Goal 17, which is to strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development. The event featured presentations from a panel of United Nations human right experts and representatives of Member States and civil society.

8. The interactive discussions that followed the presentations focused on:

(a) How States can utilize their human rights treaty obligations as their legal and operational framework to implement their development and environmental policies at the national level;

(b) How existing human rights standards and accountability mechanisms can inform global partnerships;

(c) The role of civil society in promoting international solidarity in global partnerships;

(d) The added value of integrating human rights in international solidarity towards achieving the Sustainable Development Goals.

4. Dialogue with civil society organizations

9. The Independent Expert was invited by the umbrella organization Iniciativas de Cooperación Internacional para el Desarollo to a dialogue with civil society organizations on 17 February 2017 in Madrid. She gave a presentation on the mandate of human rights and international solidarity, tracing the history and evolution of the mandate, and shared her experiences on crafting the draft declaration on the right to international solidarity. In particular, she explained the nature of international cooperation as an obligation of States towards the fulfilment of human rights, and the role of civil society organizations such as NGOs in complementing government efforts in that regard. She stressed that international cooperation is even more important now that the achievement of the Sustainable Development Goals is country-driven.

10. During her visit to Madrid, the Independent Expert also visited a local city government office in order to interact with officials and members of the community regarding their projects to promote the achievement of the Sustainable Development Goals. She took the opportunity to explain to them how a human rights-based approach to development can be integrated into their projects.

5. Participation as keynote speaker at a civil society organization international conference

11. The Independent Expert was invited by CSO Partnership for Development Effectiveness to deliver a keynote address at its international conference, held in Bangkok on 30 and 31 March 2017. The Conference, entitled "Breaking ground, taking roots: the Istanbul Principles @7", brought together representatives from civil society organizations working on development at both the national and international levels. Government officials representing a number of countries were also invited as speakers and discussants at the event. Acknowledging not only their contributions but also their weaknesses and challenges as development actors, civil society organizations affirmed their commitment to take action to improve and be fully accountable for their development practices, guided by Istanbul Principle No. 7, which states that: "CSOs are effective as development actors when they enhance the ways they learn from their experience, from other CSOs and development actors, integrating evidence from development practice and results, including the knowledge and wisdom of local and indigenous communities, strengthening innovation and their vision for the future they would like to see". The Principles were adopted in 2010 by 200 civil society organizations in affirmation of their commitment to improve and be fully accountable for their development practice.[4]

12. The Independent Expert's keynote address was entitled "Wanted and wanting: an enabling environment for civil society effectiveness in the 2030 Agenda". It tackled the issue of the growing trend of shrinking civic space and why that needs to be reversed. Among other things, she pointed out that in paragraph 18 of the outcome document of the second high-level meeting of the Global Partnership for Effective Development Cooperation, held in Nairobi in December 2016, Governments committed to accelerating progress in providing an enabling environment for civil society, including in legal and regulatory terms, in line with internationally agreed rights.[5] She challenged them to apply the standards by which they measure States' development effectiveness to themselves. Those standards are governance, accountability and participation. She also suggested that they should agree on plans for collective action to promote and advance a human rights-based approach to implementing the Istanbul Principles, towards strengthening the development effectiveness and accountability of civil society organizations at the country level.

B. Summary of key activities over the course of the mandate

1. Official country visits conducted by the Independent Expert

13. The Independent Expert conducted her first official country visit to Brazil, from 25 to 29 June 2012, in order to exchange views with the Government and other actors and to gather information on the so-called "solidarity diplomacy" experiences of Brazil, particularly in the context of its international cooperation activities. As she explained in her report (A/HRC/23/45/Add.1), the visit demonstrated the value of best practices as portals to the inherent interface between the policy and practice of international solidarity and the realization of human rights, and how such practices ineluctably lead to desirable outcomes towards the realization of human rights.

14. The Independent Expert visited Morocco and the Non-Self-Governing Territory of Western Sahara from 15 to 20 January 2016. During that visit, she paid particular attention to the nature of the cooperation between Morocco and its external partners, including development assistance cooperation, and the impact of such partnerships on the advancement of human rights. It was the first time that she was able to observe international development cooperation using the lens of the proposed draft declaration on the right to international solidarity on the ground. Her observations in that regard, including

[4] See www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DCD/DAC/EFF(2010)12&docLanguage=En.

[5] See http://effectivecooperation.org/wp-content/uploads/2016/12/OutcomeDocumentEnglish.pdf.

her conclusions and recommendations to Morocco and its development partners, are contained in her mission report to the Council (A/HRC/32/43/Add.1).

15. The Independent Expert visited Norway from 19 to 23 September 2016 to observe how human rights are integrated into the design and implementation of that country's international development cooperation, and the impact of its long-standing commitment to development assistance on the promotion and protection of human rights.

16. At the end of her visit, the Independent Expert acknowledged and commended Norway for its progressive approach to integrating human rights principles in the way it conducts foreign policy, and the country's commitment to upholding the principle of solidarity while implementing the 2030 Agenda. Norway has made targeted efforts to mainstream human rights in development cooperation, especially in the promotion of the principles of non-discrimination, participation and good governance. The Independent Expert encouraged the Government to continue refining its policy of human rights mainstreaming in all aspects of foreign policy. She also encouraged Norway to continue promoting and upholding the Guiding Principles on Business and Human Rights, including in the oil industry. The report of the Independent Expert's country visit to Norway (A/HRC/35/35/Add.1) is submitted to the Council as an addendum to the present report.

2. Attendance and participation in major international conferences

17. The Independent Expert attended and participated in a number of international and regional conferences, seminars and workshops in her capacity as mandate holder on human rights and international solidarity. The major international conferences are listed below. The other events are duly documented in her annual reports to the Human Rights Council and the General Assembly.

(a) United Nations Conference on Sustainable Development (Rio+20), 20-22 June 2012, Rio de Janeiro, Brazil;

(b) Vienna+20: Advancing the Protection of Human Rights, 27-28 June 2013, Vienna;

(c) United Nations summit for the adoption of the post-2015 development agenda, 25-27 September 2015, New York, United States of America;

(d) Twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (COP21), 3-5 December 2015, Paris.

III. Highlights and achievements in the work of the mandate since its establishment, and the evolution of the draft declaration on the right to international solidarity

18. The following is a brief account of the milestones in the work of the mandate on human rights and international solidarity. Together with the previous summary of key activities undertaken, it serves as a record of the history of the mandate since its establishment. The current mandate holder wishes to record in a single document a reference, supported by citation of relevant United Nations documents where available, for those who are interested, but especially for those who are appointed to continue the work of the mandate in the future.

19. The mandate of the Independent Expert on human rights and international solidarity was established in 2005 by the United Nations Commission on Human Rights in its resolution 2005/55. The Human Rights Council, in its resolution 17/6, took over the mandate. The current Independent Expert, Virginia Dandan, assumed the mandate on 1 August 2011. Her term was renewed in June 2014 and will end in July 2017. Ms. Dandan is the second mandate holder on human rights and international solidarity.

A. Groundwork for the development of a right to international solidarity

20. The groundwork for the development of a right to international solidarity began with the submission of a working paper on human rights and international solidarity by Rui Baltazar Dos Santos Alves (E/CN.4/Sub.2/2004/43) to the Sub-Commission on the Promotion and Protection of Human Rights of the Commission on Human Rights, as requested in its resolution 2002/73. One of the conclusions of that paper was that international solidarity as an instrument for the attainment of human rights was a fact of international life that needed new development. In his paper, Mr. Baltazar proposed a preliminary workplan, in which he recommended studying the new international context, the new challenges and the need to define principles, objectives and priorities conducive to clarifying responsibilities in the field of international solidarity and human rights (para. 37 (c)).

21. At its sixty-first session, the Commission, in its resolution 2005/55, established the mandate on human rights and international solidarity and requested the Independent Expert to study the issue and prepare a draft declaration on the right of peoples to international solidarity. Rudi Muhammad Rizki was appointed as the first Independent Expert on human rights and international solidarity.

22. In his first report (E/CN.4/2006/96), Mr. Rizki presented an overview of his approach to the work of the mandate, including the possible main areas of focus, objectives, methodology and preliminary considerations to be refined and developed in subsequent reports. During his second term, he circulated a questionnaire on human rights and international solidarity to States, United Nations departments and bodies, specialized agencies, other international organizations, NGOs in Geneva and the special procedure mandate holders of the Human Rights Council. In his report at the end of his term (A/HRC/15/32), he identified elements of a conceptual and normative framework for human rights and international solidarity, drawing from the responses to the questionnaire and his review of and observations on them, and highlighted significant areas of focus and emerging approaches in international cooperation.

23. The working paper written by Mr. Dos Santos Alves and the work of the first Independent Expert, Mr. Rizki, were inspired by the historical and philosophical foundations and, to a certain extent, the link to international law, of the principle of international solidarity and its value in international relations, which would lay the basis for the right to international solidarity.

B. Shifting focus from the principle of international solidarity to a right to international solidarity

24. In June 2011, the Human Rights Council appointed the second and current Independent Expert on human rights and international solidarity, Virginia Dandan. In her first report to the Human Rights Council (A/HRC/21/44), she outlined the work of the mandate towards the elaboration of a draft declaration. She identified stage one as the work accomplished by Mr. Dos Santos Alves and her predecessor, Mr. Rizki. In August 2011, she began her work on stage two, which entailed an in-depth examination of the relevant issues, principles, standards and norms that would shift the focus from the principle of international solidarity to the right to international solidarity. Consultations with States, independent experts and various stakeholders, including civil society and grass-roots representatives, were to be intensified throughout stage two. Stage three would be devoted to consolidating and analysing the results of the previous two stages, writing and circulating a preliminary text of the draft declaration for consultation, consolidating additional comments and inputs that were received and finalizing the initial draft declaration for submission to the Human Rights Council by 2014.

25. Upon assuming her duties, the current Independent Expert took into account the mandate's tasks set out in relevant resolutions of the Commission on Human Rights and the Human Rights Council. She paid particular attention to the Council resolutions covering the period since her appointment, especially resolution 21/10, which was a milestone in the

history of the mandate, constituting a record of the significant achievements in the work of the mandate up to that point. Notably and for the first time, the Council resolution requested the Independent Expert to report regularly to the General Assembly.

26. In the same resolution, the Council welcomed the holding of an expert workshop on human rights and international solidarity convened by the Independent Expert in Geneva in June 2012, and her participation in the same year in the United Nations Conference on Sustainable Development (Rio+20) and the People's Summit for Social and Environmental Justice in Rio de Janeiro in Brazil. In that resolution, the Council encouraged her engagement in the post-2015 development agenda process, stressing the role of international solidarity as a key element in achieving sustainable and more inclusive development.

C. Expert workshop on human rights and international solidarity

27. The two-day expert workshop on human rights and international solidarity was held in June 2012 in Geneva, under the auspices of the Independent Expert who gathered 26 experts from various regions. Representatives of States, United Nations agencies and NGOs also attended the public segment of the workshop as observers and were invited to participate in the working groups. The discussions in the workshop focused on issues including the content, nature and added value of international solidarity; the definition of international solidarity and a right to international solidarity; the relationships between international solidarity and international cooperation; and looking beyond the Millennium Development Goals. The participants expressed their thoughts freely based on their individual expertise and exchanged views, as summarized in the Independent Expert's report to the Council (A/HRC/21/44/Add. 1).

28. In its resolution 21/10, the Council explicitly spelled out the tasks of the mandate, requesting the Independent Expert, inter alia, to:

(a) Continue to identify areas to be addressed, the main concepts and norms that can form the basis of a framework, and good practices to inform the future development of law and policy with regard to human rights and international solidarity;

(b) Conduct in-depth research and intensive consultations with a view to preparing and sharing with Member States and all other relevant stakeholders a preliminary text of the draft declaration on the right of peoples and individuals to international solidarity;

(c) Continue her work in the preparation of a draft declaration on the right of peoples and individuals to international solidarity and in further developing guidelines, standards, norms and principles with a view to promoting and protecting that right by addressing, inter alia, existing and emerging obstacles to its realization.

29. The Council also took note of the final paper on human rights and international solidarity (A/HRC/21/66) submitted by the drafting group of the Human Rights Council Advisory Committee, working in close cooperation with the Independent Expert, as an input to the process of elaborating a draft declaration on the right of peoples and individuals to international solidarity.

30. The Independent Expert conducted formal and informal consultations with State delegations, United Nations officials, bodies and specialized agencies, independent experts, national human rights institutions, NGOs, academics and local communities, listening to as many people as possible, including those who did not share her views regarding human rights and international solidarity. At the same time, she conducted in-depth research and participated in relevant forums and major events to raise awareness of and promote the right to international solidarity.

D. Consolidation and analysis of data, writing and submission of the proposed draft declaration

31. In its resolution 23/12, the Council reiterated its request for the Independent Expert to continue to work on the preparation of a draft declaration on the right of peoples and individuals to international solidarity and in that connection, to prepare a preliminary text of the draft with a view to eliciting comments and recommendations for the final declaration. Contributions were received within the specified time frame from civil society, United Nations agencies and other experts. Three States eventually submitted their responses to the preliminary text of the draft declaration.

32. The preliminary text was circulated in 2013 and published as an addendum to the Independent Expert's report to the Council at its twenty-sixth session (A/HRC/26/34/Add.1). The insights and input from United Nations agencies and independent experts, including those arising from the 2012 expert workshop, the final paper of the Human Rights Council Advisory Committee, and the comments submitted by NGOs, academics, national human rights institutions and local communities on the preliminary text, were of great value in the preparation of the proposed draft declaration, which was also submitted to the Council at that session (A/HRC/26/34, annex).

33. In that report, the Independent Expert explained that since the document she submitted was prepared even in the absence of comments and inputs from States themselves, she used the word "proposed" in the title of the draft declaration. One of her recommendations in that report was that the Human Rights Council should hold regional consultations on the proposed draft declaration so that the Independent Expert could gather as much input as possible from States and their representatives on the proposed draft declaration. Participants in the regional consultations would include relevant policymakers, decision makers and representatives of Governments, regional United Nations agencies, national human rights institutions and NGOs, and they would be able to effectively examine and discuss the proposed declaration based on their actual work experience. The outputs from the regional consultations would thus be well-informed by direct inputs and comments on the text of the proposed draft declaration. At the end of the consultation cycle, the Independent Expert would consolidate and consider the outputs from all the regional consultations, revise the proposed draft declaration as appropriate, and submit the amended draft declaration for the consideration of the Human Rights Council.

34. The Council noted with appreciation the proposed draft declaration and decided that, in order to obtain further inputs from as many Member States as possible on it, the Independent Expert, with the assistance of OHCHR, would convene regional consultations, consolidate and consider the outputs from all the consultations and submit a report to the Council at its thirty-second session. The Council requested the Independent Expert to submit a revised draft declaration to it and to the General Assembly before the end of her second term in June 2017.

35. The paragraphs that follow contain a brief summary of the contents of the proposed draft declaration, in order to facilitate better appreciation of the final draft declaration on the right to international solidarity, contained in the annex to the present report. The summary also serves as background reference for the comments and notes relating to the revisions on the text of the proposed draft declaration. As indicated above, the full text of the proposed draft declaration is contained in the annex to document A/HRC/26/34.

E. Proposed draft declaration on the right of peoples and individuals to international solidarity

36. In its preambular paragraphs, the proposed draft declaration on the right of peoples and individuals to international solidarity affirms that international solidarity is not limited to international assistance and cooperation, aid, charity or humanitarian assistance. Preambular paragraph 8 succinctly expresses the substantive foundation of the proposed draft declaration when it stresses that international solidarity is a fundamental concept of mutually reinforcing relations among persons, groups and nations, an essential binding

element that underpins global partnerships, a key approach to poverty eradication, and an indispensable component of the efforts to realize all human rights, including the right to development, as well as the Sustainable Development Goals.

37. Articles 1 to 4 define the concept of international solidarity, exemplifying solidarity among States, peoples and individuals, and identify foundational principles and the constituent features of international solidarity, namely, preventive solidarity and international cooperation. Article 4 enumerates the significance of international solidarity in contemporary international law and its general objective.

38. Article 5 spells out the definition and the normative content of the right to international solidarity. It makes the important point that the right to international solidarity draws on the human rights norms that are already codified in international legal documents and that therefore, the right to international solidarity encompasses existing entitlements along with the obligations of States that are well established in international human rights treaties.

39. Article 6 identifies the rights holders and indicates to whom the word "peoples" applies, in addition to those belonging to the more familiar and dominant paradigms. Article 7 enumerates the right of peoples and individuals, individually and in association with others, within their territories and extraterritorially beyond national boundaries, as provided for in human rights and other applicable international instruments. Article 8 identifies the duty bearers as primarily the State, as well as non-State actors that work with groups and communities of people, and describes their duties and responsibilities as such.

40. Articles 9 to 12 encapsulate various elements in existing international commitments signifying duties and obligations of States that are directly linked to international solidarity. Article 10 argues for the establishment of an appropriate institutional framework and domestic measures to give effect to the right to international solidarity. Giving effect to human rights is recognized as an important indication of the value a State attaches to its human rights obligations. Article 11 deals with a human rights-based approach to international cooperation and all partnerships in responding to global challenges. Article 12 focuses on some of the negative obligations of States that are required by international human rights instruments.

F. Five regional consultations

41. The first consultation was held in April 2015 in Geneva with representatives of the Western European and other States and the Eastern European States. Subsequent consultations were then held in July 2015 in Addis Ababa with representatives of the African States; in September 2015 in Panama City with representatives of the Latin American and Caribbean States; in November 2015 in Suva with representatives of the Asia-Pacific States; and in January 2016 in Doha with representatives of the Middle East and North African States.

42. The regional consultations brought together relevant experts and practitioners from Member States, intergovernmental organizations, United Nations agencies, regional economic commissions, the private sector, civil society, including NGOs, and academia and independent experts in each region. OHCHR organized the consultations through its regional and field offices. There was a common agenda for all five regional consultations, consisting, for the most part, of panel presentations followed by discussions, then comments of a general nature that allowed participants to freely discuss the components and features of the proposed draft declaration. The experts who were invited to each consultation were requested to prepare written submissions on specific themes that they presented as panellists, in order to initiate discussions. Their submissions highlighted regional and national experiences and approaches relating to international solidarity. Where possible, panellists were invited based on their experience relating to the implementation of government policies, including in the areas of poverty reduction, food security, public health, international development cooperation, trade, finance, environmental protection, natural disaster risk and management.

43. The discussions were enriched by panel presentations and the ensuing debates among participants. Extensive discussions were also devoted to international cooperation as a duty of States and addressing the challenges of, inter alia, climate change, cross-border migration and terrorism. The consultations were structured to encourage participants to discuss the logic, structure and content of the text of the proposed draft declaration; to provide concrete inputs regarding the text with a view to clarifying issues that were seen to stem from it; and to put forward further recommendations for the implementation on the ground of the right to international solidarity.

44. The timing of the five regional consultations on the proposed draft declaration on the right to international solidarity over ten months beginning in the first quarter of 2015 to early 2016 could not have been more appropriate. The consultations coincided with two major United Nations international conferences held in the last quarter of 2015 — the summit to adopt the 2030 Agenda with its Sustainable Development Goals and the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change to adopt what was to be known as the Paris Agreement — two global initiatives to address the future of humanity, in which international solidarity would play a vital role. As such, the thoughts of most participants in the consultations were rife with issues of international solidarity linked to sustainable development and climate change.

G. Submission and revision of the proposed draft declaration

45. The Independent Expert submitted her report on the five regional consultations to the Human Rights Council at its thirty-second session in June 2016 (A/HRC/32/43). In its resolution 32/9, the Council welcomed the report and the Independent Expert's work in convening the regional consultations. It also requested the Independent Expert to convene a meeting with experts from the five geographical regions to assist in finalizing the draft declaration on the right of peoples and individuals to international solidarity, and requested OHCHR to assist her in conducting a legal review of the draft declaration prior to its submission to the Council in 2017.

46. The Independent Expert, with the assistance of OHCHR, consolidated the inputs gathered from the regional consultations and proceeded to revise the text of the proposed draft declaration. The process of revising the original text of the proposed draft declaration took into account the most salient issues arising from the regional consultations, as well as those from the other activities mentioned above, including the personal work experience and studies of the Independent Expert.

H. Expert group meeting on the revised draft declaration on the right to international solidarity

47. On 14 and 15 February 2017, the Independent Expert convened a meeting of legal experts in Geneva to review the revised version of the draft declaration on the right to international solidarity as a last step in its finalization. The six experts represented a diversity of regions, perspectives and areas of expertise, each having a strong legal background, particular knowledge of international solidarity and familiarity with the process that informed the crafting of the draft declaration.

48. The expert group meeting sought to ensure that the draft declaration was in harmony with existing international law and standards, to review and clarify the definition of the right to international solidarity, and to provide other concrete inputs on the proposed text in order to prepare it for submission to the Council. The final revisions to the document have now been completed.

IV. Comments on the revisions of the draft declaration

49. The Independent Expert has revised the draft declaration from its previous version as the "proposed draft declaration" through a process that included the five regional

consultations conducted in 2015 and 2016 and the expert group meeting held in February 2017, as well as significant reflection and research by the Independent Expert herself. The goals of that process were to incorporate the perspectives of States, civil society and experts into the draft declaration as appropriate, and to harmonize the document with the existing framework of international law, particularly international human rights law.

50. Throughout the draft declaration, the Independent Expert has incorporated reference to language and concepts already agreed upon in established international legal documents, including the Charter of the United Nations, the Universal Declaration of Human Rights and the United Nations Framework Convention on Climate Change, in order to strengthen the preamble of the draft text and further develop a well-founded legal framework for the right to international solidarity.

51. During the regional consultations, there was wide agreement that the title of the draft declaration could be simplified to "Draft declaration on the right to international solidarity", because the rights holders — peoples and individuals — are clearly stated in the text of the draft itself.

52. The discussions at the expert group meeting included meaningful considerations on the structure of the declaration as a whole, and on whether it would be best to first define the right to international solidarity, since that was the subject of the declaration, or rather begin with defining the broader concept of international solidarity before proceeding to the substance of the right.

53. The expert group meeting also included significant discussion on the relevance of a draft declaration on international solidarity at a time of rising nationalism and fragmentation around the world. Experts suggested that perhaps current events had truly highlighted the need for the document, and also that a human rights-based vision of international solidarity could create an alternative narrative to that of globalization, which was increasingly perceived to be a harmful and entirely negative force. There was unanimous recognition that, despite political sentiment that focused on divisions, humans existed in a state of interconnectedness and interdependence and that there were global challenges that could not be resolved without international solidarity.

A. Preamble

54. In accordance with the recommendations received during the regional consultations and particularly during the expert group meeting, the Independent Expert has synchronized the preamble to the draft declaration with the operational section of the text, providing a solid context for the declaration while avoiding duplication.

55. The Independent Expert has also ensured that the preamble reflects the full range of international law that is based on international solidarity, adding specific references to international humanitarian and refugee law, climate change law, labour law and other areas of global concern, as well as regional treaties and covenants.

56. At their group meeting, the experts carefully considered and discussed how best to reflect the incorporation of international solidarity throughout international law, including how to ensure that each area of law and each international instrument would be highlighted appropriately, and how to ensure that the documents referenced would truly demonstrate international solidarity.

B. Definition, principles and objectives of international solidarity

57. Following the recommendations made during the regional consultations and the expert group meeting, the Independent Expert has sought to consolidate several articles defining international solidarity. She has identified international solidarity as a foundational principle underlying international law, and enumerated several related principles articulated in international law that provide a basis for international solidarity.

58. At their group meeting, the experts considered how to emphasize the primacy of human rights in the definition of international solidarity, while also recognizing that the principle of international solidarity is broad in nature, extending to every facet of international law and cooperation, and is relevant as such in addressing all human rights and human needs.

59. In response to the discussion at the expert group meeting, the Independent Expert has included reactive solidarity in the constituent elements of international solidarity listed in the text. The list is an attempt to capture most, if not all, of the types of action taken by States and by the international community that can be viewed as expressing international solidarity.

C. Right to international solidarity

60. The Independent Expert has taken care to define the right to international solidarity clearly and meaningfully, mindful of the comments received during the regional consultations and expert group meeting, and of established international law. Responding to the suggestions that were made during the regional consultations and the expert group meeting, the Independent Expert has simplified the articles defining the rights holders and duty bearers of the right to international solidarity, and has clarified the definition of non-State actors who — aside from States — are also identified as duty bearers of the right.

61. Echoing a conversation that also took place during the regional consultations, the expert group meeting debated whether the right to international solidarity should be classified as a right that is justiciable. While some experts struggled to imagine a context in which rights holders might be able to claim that right before a court of law, one expert suggested that the right to international solidarity might provide, for example, a cause of action for a civil society organization that was being targeted by a State for receiving funding from foreign sources, and another proposed that it might be invoked for the protection of those who were prosecuted for providing aid to migrants.

D. Implementation of the right to international solidarity

62. Based on the recommendations that were made during the regional consultations and the expert group meeting, the Independent Expert has worked to align the implementation section of the draft declaration with that of other international declarations by simplifying and generalizing the positive obligations contained in the right to international solidarity and by eliminating the list of negative obligations, many of which were mirrored in the positive obligations already provided in the draft declaration.

63. The expert group gave careful consideration to the particular global issues and challenges that should be enumerated in the implementation articles, recognizing that while certain issues should be highlighted, it is important to make it clear that the implementation of the right is not limited to these particular areas only. The Independent Expert emphasized that the selection of issues highlighted reflected the priorities of prior consultations as well as the need to illustrate linkages between issues that are often overlooked in the discourse.

V. Conclusion and recommendations

64. **One of the questions that elicited lengthy discussions during the expert group meeting was how the right to international solidarity would be implemented in certain circumstances. While acknowledging that the points raised were important considerations, the Independent Expert argued that the understanding of international instruments does not derive solely from the texts, but also from how those instruments are interpreted by those responsible for their implementation. Thus, it is extremely valuable that there exists the space for that process to take place in practice.**

65. In that regard, the Independent Expert recalls that, in the report she presented at the seventy-first session of the General Assembly in 2016, she stated that the validity of a legal argument does not always rest on the nature of its origins, but with the reception it gets from the international community when it is introduced. When States adopt a resolution, they agree in effect on the principles contained in the resolution and may turn them into standard operating procedures, State practice and ultimately, rules of international law, and as such, they will possibly gain the international recognition that cannot be acquired otherwise. That same procedure can be applied to developing the right to international solidarity as an enabling right for the respect, protection and fulfilment of human rights. Our understanding of human rights cannot be perfect and complete from the very start, as exemplified by the international human rights treaties, the enforceability of which did not exist even as they came into force. Human rights can only come into existence as enforceable claims through continuous work and effort by legal and political institutions, human rights mechanisms and most importantly, the experience and practice of States themselves.

66. The Independent Expert also recalls how she came away from the five regional consultations with an even firmer conviction about the feasibility and enforceability of the right to international solidarity as elaborated in the present draft declaration. The regional consultations attested to the fact that many States already have the working institutions and agencies to implement the right to international solidarity. It thus appears that resistance to the idea of a right to international solidarity emanates not from those working on the ground who, by all indications from the five regional consultations and the country visits of the Independent Expert, possess the knowledge and experience to make it work in practice, but from elsewhere. It is also evident from the experiences recounted by national and regional actors that, although it may take a while to surmount some obstacles, the right to international solidarity can be effectively implemented in culturally diverse ways that do not in any way diminish the standards indicated in the draft declaration. Human rights are always a work in progress that can only come into full existence as enforceable claims through the continuous development of their myriad dimensions and the hands-on work being done on the ground by local actors.

67. On every occasion possible, the Independent Expert promotes the position that a declaration on the right to international solidarity would bring significantly closer the formal recognition that the right to international solidarity is a powerful tool in addressing the structural causes of poverty, inequality and other global challenges, including the adverse impact of climate change on human rights. Furthermore, that right is essential in building a global constituency for a just regulation of globalization and more equitable arrangements for trade, investment, finance, aid, foreign debt, technology transfer, intellectual property, migration, labour and the environment. When it is recognized for what it is outside of political rhetoric and considerations, taking full account of that right would be crucial in addressing the impacts of present day global challenges, including the growing refugee and migration crises, the unabated horrors of terrorism and human trafficking. Notably, that right would anchor global partnerships, allowing international commitments to be nurtured and advanced. As such, it would be instrumental to the attainment of the 2030 Agenda for Sustainable Development.

68. In its resolution 32/9, the Human Rights Council mapped the way forward in the work of the mandate on human rights and international solidarity, as contained in its request for the Independent Expert to undertake thematic research on the importance of international solidarity in realizing the human rights of peoples and individuals, including on impediments to mainstreaming it, to assist States, intergovernmental organizations and civil society to actively engage in promoting the important role of international solidarity in the achievement of the 2030 Sustainable Development Agenda, especially in economic, social and climate issues, while paying particular attention to Goal 17 and the related indicators.

Annex

Draft declaration on the right to international solidarity

The General Assembly,

Guided by the Charter of the United Nations, and recalling, in particular, the determination of States expressed therein to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom and to unite their strength to maintain international peace and security,[a]

Recalling that one of the purposes of the United Nations is to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction and that all State Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of this purpose,

Recalling also that international solidarity inspires the Universal Declaration of Human Rights, in which the equal and inalienable rights of all members of the human family are recognized[b] and which states that all human beings are born free and equal in dignity and rights,[c] and affirms that everyone is entitled to a social and international order in which rights and freedoms can be fully realized,[d]

Taking into account the fifth preambular paragraph of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which states that individuals, having duties to other individuals and to the communities to which they belong, are under a responsibility to strive for the promotion and observance of the rights recognized therein,

Bearing in mind that international cooperation and solidarity are fundamental principles underlying the endeavour of international law, reflected in General Assembly resolution 2625 (XXV), which affirms the duty of States to cooperate with one another in accordance with the Charter, as well as international agreements such as the United Nations Convention on the Law of the Sea, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, and the Antarctic Treaty, which reflect and address global concerns,

Recognizing the affirmation of international solidarity and cooperation enshrined in the Preamble to the Convention relating to the Status of Refugees and reflected in the Geneva Conventions relating to the protection of victims of international armed conflicts and throughout international humanitarian law,

Recalling the preamble of the United Nations Framework Convention on Climate Change, in which the parties acknowledge the need for international cooperation in accordance with common but differentiated responsibilities and respective capabilities,

Recognizing the commitment to international solidarity embraced by the Declaration concerning the aims and purposes of the International Labour Organization and embodied in that Organization's fundamental conventions,

Recalling the multitude of international and regional human rights treaties and other instruments that express international solidarity, most notably the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural

[a] See the Charter of the United Nations, preamble.
[b] See the Universal Declaration of Human Rights, preamble.
[c] Ibid., art. 1.
[d] Ibid., art. 28.

Rights of 1966, the Declaration on the Right to Development of 1986 and the Vienna Declaration and Programme of Action of 1993,

Taking into account the global commitment to solidarity for sustainable development found in international documents including the Rio Declaration on Environment and Development of 1992, the Copenhagen Declaration on Social Development and Programme of Action of the World Summit for Social Development and the Beijing Declaration and Platform for Action of 1995, the United Nations Millennium Declaration of 2000 and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development and the 2030 Agenda for Sustainable Development of 2015,

Bearing in mind that all regional agreements are founded on and express international solidarity and cooperation, including the Constitutive Act of the African Union, the Charter of the Organization of American States, the Charter of the League of Arab States, the founding treaties of the European Union, and the Charter of the Association of Southeast Asian Nations,

Affirming that international solidarity is a broad principle encompassing, but not limited to, sustainability and responsibility in international relations, the peaceful coexistence of all members of the international community, accountability of States to each other and to their respective citizens, organizations, constituents and stakeholders,[e] equal partnerships and the equitable sharing of benefits and burdens,[f] according to the principle of common but differentiated responsibilities,[g]

Mindful that, while globalization opens up new opportunities for growth and development, it also presents challenges including growing inequality, widespread poverty, unemployment, social disintegration and environmental risks that demand increased coordination and collective decision-making at the global level,

Stressing that international solidarity is a fundamental concept of mutually reinforcing relations among individuals, peoples and States, an essential element that underpins global partnerships, a key approach to peace, disarmament and poverty eradication, and an indispensable component of the efforts to realize all human rights, including the right to development, and internationally agreed development goals,

Recognizing in this regard that international solidarity is essential in overcoming global challenges such as natural disasters, health emergencies and epidemic diseases, the adverse effects of climate change, armed conflict, poverty and hunger, especially among children, terrorism and transnational armed militias, and violence against women,

Taking into account General Assembly resolution 60/251, recognizing that the promotion and protection of human rights should be based on the principles of cooperation and genuine dialogue and aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings,

Emphasizing the commitment of States in the 2030 Agenda for Sustainable Development to a revitalized Global Partnership in a spirit of global solidarity, particularly solidarity with the poorest and with people in vulnerable situations,

Convinced that overcoming all current and future global challenges, achieving internationally agreed development goals and the full realization of human rights for all critically rest on international solidarity,

Declares the following:

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[e] See the Busan Partnership for Effective Development Cooperation 2011 outcome document. Available from www.oecd.org/dac/effectiveness/49650173.pdf. See also Organization for Economic Cooperation and Development, Development Assistance Committee, "DAC action-oriented policy paper on human rights and development" (2007). Available from http://inprol.org/resource/6398/oecd-dac-action-oriented-policy-paper-on-human-rights-and-development.

[f] See Human rights Council resolution 18/5, para. 2.

[g] See United Nations Framework Convention on Climate Change, art. 3.

Part I. International solidarity: definition, principles and objectives

Article 1

1. International solidarity is the expression of a spirit of unity among individuals, peoples, States and international organizations, encompassing the union of interests, purposes and actions and the recognition of different needs and rights to achieve common goals.

2. International solidarity is a foundational principle underpinning contemporary international law in order to preserve the international order and to ensure the survival of international society.

3. The principle of international solidarity is based on, and in accordance with:

(*a*) Justice, equity, peace, non-interference, self-determination, mutual respect and accountability in international relations;

(*b*) The permanent sovereignty of each State over its own natural wealth and resources and to determine freely its own objectives of sustainable development, to set its own priorities and to decide, in accordance with international human rights law, including the right to development and the principles of the Charter of the United Nations, the means and methods of achieving those objectives, without any external interference;[h]

(*c*) Equitable, just and fair partnerships of States as the basis of international cooperation;

(*d*) Respect for and protection and fulfilment of human rights and fundamental freedoms for all individuals, without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status;

(*e*) The accountability of States to their peoples concerning the implementation of their foreign policy and their bilateral, regional and international agreements and partnerships, for the actions of the international organizations of which they are members, in conformity with the States' international human rights obligations,[i] and for failures to investigate, prevent or sanction the conduct of the private sector within their jurisdiction.

Article 2

International solidarity consists of preventive solidarity, reactive solidarity and international cooperation:

(*a*) Preventive solidarity is characterized by collective actions to safeguard and ensure the fulfilment of all human rights, and requires that States fully respect and comply with their obligations under international law, and that individuals, peoples, civil society, the private sector and international organizations complement the efforts of States through their activities in that regard;

(*b*) Reactive solidarity is characterized by collective actions of the international community to respond to the adverse impacts of natural disasters, health emergencies, epidemic diseases and armed conflict, with the goals of alleviating human suffering, mitigating further damage and ensuring that the response complies fully and effectively with States' obligations under international human rights law;

(*c*) International cooperation rests on the premise that some States may not possess the resources or capacity necessary for the full realization of the rights set forth in international human rights treaties. States in a position to do so should provide international assistance, acting separately or jointly, to contribute to the fulfilment of human rights in other States in a manner consistent with the fundamental principles of international law and international human rights law.

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[h] See A/HRC/21/66, para. 22 (e).

[i] See Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health, para. 50.

Article 3

The general objective of international solidarity is to create an enabling environment for:

(*a*) Preventing and removing the causes of asymmetries and inequities between and within States, and the structural obstacles and factors that generate and perpetuate poverty and inequality worldwide;

(*b*) Engendering trust and mutual respect between States and non-State actors to foster peace and security, development and human rights;

(*c*) Promoting a social and international order in which all human rights and fundamental freedoms can be fully realized.

Part II. The human right to international solidarity

Article 4

1. The right to international solidarity is a human right by which individuals and peoples are entitled, on the basis of equality and non-discrimination, to participate meaningfully in, contribute to and enjoy a social and international order in which all human rights and fundamental freedoms can be fully realized.

2. The right to international solidarity is grounded in the codification and progressive development of freedoms and entitlements contained in international human rights treaties reflecting civil and political rights, economic, social and cultural rights, the right to development and international labour standards, and complemented by other responsibilities arising from voluntary commitments undertaken in the relevant fields at the bilateral, multilateral, regional and international levels.

Article 5

Individuals and peoples, regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status, have the right, individually and in association with others, within or beyond their territories and national boundaries, to claim the right to international solidarity, with particular reference to indigenous peoples, minorities, migrants, refugees and other groups, such as civil society groups and other organizations.

Article 6

1. All States, whether acting individually or collectively, including through international or regional organizations of which they are members, have the primary duty to realize the right to international solidarity.

2. International organizations and non-State actors also have a duty to respect the right to international solidarity, particularly in situations where such actors bear similar and complementary responsibilities to the duties of States.

Part III. Implementing the right to international solidarity

Article 7

1. States shall cooperate with each other and with non-State actors to promote collective action to address poverty, hunger, illiteracy, violent conflict, gender discrimination, preventable deaths and contemporary slavery in all its forms, paying attention to, inter alia, the interrelationship between all these issues and the intersectional nature of discrimination.

2. States shall take all appropriate measures to address the fact that many women and girls face situations of vulnerability, multiple forms of discrimination and gender-based violence.

3. States shall ensure that the procedures and outcomes under international agreements and standards are fully consistent with their human rights obligations in matters pertaining to, inter alia, international trade, investment, finance, taxation, climate change adaptation and mitigation, environmental protection, humanitarian relief and assistance, development cooperation and security.

4. States shall take appropriate, transparent and inclusive action to ensure the meaningful participation of individuals and peoples in decision-making processes at the national, bilateral, regional and international levels on matters that affect their lives.

5. States shall adopt and effectively implement policies and programmes targeted at the promotion and protection of, inter alia, the rich variety and diversity that exist in the cultures of individuals and peoples who make up international society, and the reciprocal influences they exert on each other.

Article 8

1. States shall establish an appropriate institutional framework and adopt domestic measures, legislative or otherwise, to give effect to the right to international solidarity and to ensure that actions and omissions by States and non-State actors do not adversely affect the exercise and full enjoyment of human rights.

2. States shall abstain from impeding access to actual and virtual spaces where individuals and peoples can freely exchange information without unnecessary restrictions.

Article 9

1. States shall implement a human rights-based approach to international cooperation and all partnerships in responding to global challenges such as those relating to:

(*a*) Peace and security, global governance, environmental protection and climate justice, humanitarian relief and assistance, trade, foreign debt, official development assistance, social protection, education, health, and food and nutritional security;

(*b*) Participatory global governance where structural inequalities are addressed;

(*c*) Building equality in power relations between women and men in national, regional and global decision-making and leadership positions;

(*d*) Creating a global enabling environment for sustainable development that is centred on individuals and peoples and grounded in intergenerational equity.

2. States shall establish and implement appropriate mechanisms to ensure that international cooperation is based on equal partnerships, mutual commitments and obligations, without conditionalities that hinder the exercise and enjoyment of human rights, where partner States are accountable to each other, as well as to their respective constituents at the national level, for the outcomes of policies, strategies and performance, whether at the bilateral, regional or international level, which shall be in accordance with international human rights principles and standards.

3. States shall give effect to the establishment of a fair, inclusive, participatory and human rights-based international trade and investment regime where all States shall act in conformity with their obligation to ensure that no international trade agreement or policy to which they are a party has any adverse impact on the protection, promotion and fulfilment of human rights both within and beyond their borders.

4. International cooperation shall be aimed at enabling each State to fulfil its primary responsibility to devote maximum available resources to the implementation of its human rights obligations at the national level, both in the immediate fulfilment of its core obligations as a priority, and in the concrete, deliberate and targeted progressive realization of all human rights, including the right to development.

Article 10

Nothing in the present declaration shall be construed as being contrary to the purposes and principles of the United Nations, or as implying that any State, individual or

people has a right to engage in any activity or to perform any act aimed at the violation of the rights set forth in the Universal Declaration of Human Rights and in the international human rights instruments.